

# CLARK HILL

Charles R. Spies  
T 202.572.8663  
F 202.572.8683  
Email: cspies@clarkhill.com

Clark Hill PLC  
1250 Eye Street NW  
Washington, DC 20005  
T 202.772.0909  
F 202.772.0919  
clarkhill.com

September 21, 2011

Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination & Legal Administration  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
2011 SEP 23 AM 8:09  
OFFICE OF GENERAL  
COUNSEL

VIA FACSIMILE: (202) 219-3923

Re: MURs 6487 and 6488: Restore Our Future, Inc. Response  
to Complaints against F8 LLC, Steven J. Lund, and Eli Publishing, L.C.,  
et al.

Dear Mr. Jordan:

We are writing this letter on behalf of Restore Our Future, Inc., and Charles R. Spies, in his official capacity as Treasurer (collectively referred to as "ROF") in response to the Complaints filed in the above-referenced matter by self-styled campaign "reform" groups, the Campaign Legal Center and Democracy 21 (collectively referred to as the "Complainants") against F8 LLC, "John Doe, Jane Doe and other persons who created and operated F8 LLC and made contributions to Restore Our Future in the name of F8 LLC," Steven J. Lund, and Eli Publishing, L.C. (collectively "Named Respondents"). This response is made on behalf of ROF and is limited to the propriety of ROF's status as a respondent. ROF is not named as a respondent in the complaints, and there are no stated allegations of wrongdoing by ROF, but apparently one or more intake clerks in the FEC's Office of General Counsel took it upon themselves to attempt to also include ROF as a respondent, along with the multiple Named Respondents. The Complaints both fail on their faces to state even a "worst case" legal theory under which ROF could possibly have violated the Federal Election Campaign Act of 1971, as amended ("FECA" or "Act") and consequently should be immediately dismissed as regards ROF as a respondent.

The Commission may find "reason to believe" only if a Complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Act. See 11 C.F.R. §

September 21, 2011

Page 2

111.4(a), (d). In this case, despite naming four respondents, and Complainants' vast resources and motivation to create some sort of scenario in the Complaints that, if proven, would constitute a violation of the Act by ROF, they were nonetheless unable to assert any theory at all by which ROF could have violated the Act. Complainants frequently make public their disagreements with First Amendment protections for political speech<sup>1</sup> and are committed advocates for restrictions on political speech. As such, their organizations (Democracy 21 and the Campaign Legal Center) raise funds for their pro-regulatory lobbying efforts through periodically filing FEC complaints hyperbolically asserting violations of the Act by (usually) conservative-leaning organizations and candidates. We note this ideological agenda and practice not to pass judgment upon Complainants, but instead to reinforce that if Messrs. Hebert, Ryan, Wertheimer and Simon could have come up with some sort of theory under which ROF might have violated the Act, it is an almost certainty that they would have promptly, publicly and gleefully laid out the case against ROF's activities and filed complaints with the Commission (as well as the U.S. Department of Justice, United Nations, etc.). However, Complainants did not file a complaint against ROF, and did not assert any facts which, if true, would constitute a violation of the Act by ROF.

The failure to name ROF as a respondent and/or assert any facts which, if true, would constitute a violation of the Act by ROF, is not merely a technical mistake. The contents of the complaints are sworn to and signed in the presence of a notary public as required by 11 C.F.R. § 111.4(b)(2). However, because the complaints name only the four stated Named Respondents, ROF cannot after-the-fact be added as a respondent in this matter by Commission staff. To do so would broaden the Complaint beyond what has been sworn to and signed, which would be impermissible under 11 C.F.R. § 111.4(b)(2). The Commission has taken the position that unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true. See MUR 4960, Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons (Dec. 21, 2001). Moreover, the Commission will dismiss a complaint when the allegations are refuted with sufficiently compelling evidence. See *id.*

In the instant case, no allegations have been made regarding ROF, so there are no allegations to refute and no refutation is necessary. We consequently respectfully request that the Commission recognize the legal and factual insufficiency of the complaints on their faces and dismiss them as regards the inclusion of ROF as a respondent.

---

<sup>1</sup> See Paul Blumenthal, *Super PAC Corporate Donations: Not All Contributions Are Equal*, HUFFINGTON POST, Aug. 11, 2011, available at [http://www.huffingtonpost.com/2011/08/11/super-pac-corporate-donations\\_n\\_924865.html](http://www.huffingtonpost.com/2011/08/11/super-pac-corporate-donations_n_924865.html). ("We are just seeing the beginning of what could turn out to be an onslaught of corporate money being injected into our congressional and presidential campaigns," Democracy 21 President Fred Wertheimer told The Huffington Post. "The *Citizens United* decision has opened up Pandora's Box here.") and *Id.* ("The Campaign Legal Center's FEC Program Director, Paul S. Ryan, previously told The Huffington Post, 'There's a big difference between humans and corporations that the Supreme Court ignored in their *Citizens United* decision.'").

CLARK HILL

September 21, 2011  
Page 3

Thank you for your prompt consideration of these matters, and please do not hesitate to contact me directly at (202) 572-8663 with any questions.

Respectfully submitted,



Charles R. Spies  
*Counsel and Treasurer to Restore Our Future, Inc.*

236967.2 35571/139561

CLARK HILL  
236967.2 35571/139561